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C O N F I D E N T I A L SECTION 01 OF 02 SARAJEVO 001370

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TAGS: [PGOV](#) [PREL](#) [KCRM](#) [KJUS](#) [ASEC](#) [BK](#)
SUBJECT: BOSNIA: DEPARTING STATE PROSECUTOR WAR CRIMES
CHIEF REFLECTS ON HIS TENURE

REF: A. SARAJEVO 840
[1](#)B. 08 SARAJEVO 1476
[1](#)C. 08 SARAJEVO 1087
[1](#)D. 07 SARAJEVO 2555
[1](#)E. SARAJEVO 689

Classified By: DCM Jonathan Moore for Reasons 1.4 (B) and (D)

Summary -----

[1](#)1. (U) At a farewell lunch December 9, David Schwendiman (outgoing head of the State Prosecutor's Special Department for War Crimes, SDWC) reflected on his achievements, while lamenting the tremendous difficulties facing the department. His comments underscore the challenges facing the State Prosecutor's Office in processing war crimes cases and the need for continued monitoring, technical assistance, and political support from the international community. End summary.

Departure of David Schwendiman -----

[1](#)2. (SBU) We met on December 9 with David Schwendiman, the USG-funded outgoing head of the State Prosecutor's Special Department for War Crimes (SDWC). Schwendiman, who has worked at the Office since 2006, described his time in Bosnia as professionally gratifying but difficult due to the challenging political environment and the constant battle for resources SDWC faces. He noted that SDWC had lost valuable time making progress on war crimes processing during the mandate of the previous State Prosecutor, Marinko Jurcevic, who opposed attempts to prioritize war crimes cases and other needed reforms advocated by Schwendiman.

Schwendiman's Reforms -----

[1](#)3. (U) Schwendiman was most proud of his and his staff's development of case selection criteria, which have been touted nationally and internationally. As we have reported (Refs A-D), the case selection criteria represent a sea change in the way in which SDWC processes war crimes. The criteria make it possible for SDWC to organize and prioritize all cases according to whether they are related to large-scale operations launched against individuals in a geographic area (i.e. Srebrenica 1995), specific events in which individuals were killed (Kravice Warehouse), and by considering which actors were responsible for the crimes. Schwendiman also cited progress on creating an inventory of war crimes cases nation-wide, as called for in the National

War Crimes Strategy. To date, the team working on the project has digitized all war crimes cases and files in SDWC.

In addition, with financial assistance from the Norwegian government, it has digitized over 383,000 pages of exhumation and excavation records made available by the International Committee for Missing Persons (ICMP). The team is also digitizing files from various prosecutors' offices nation-wide. Schwendiman believes that it would take a year for all war crimes cases to be digitized, assuming that SDWC has the resources to continue the project.

14. (SBU) Schwendiman, who has been widely praised for his strong managerial skills, said the staff members who remain are highly professional and dedicated to implementing the National War Crimes Strategy. In addition to increasing morale, Schwendiman organized prosecutors and legal officers into five geographic teams (Northwest Bosnia, Middle Bosnia, Eastern Bosnia, Sarajevo/Foca, and West Herzegovina) plus Srebrenica, and focused their attention on the most important cases using case selection criteria and the case inventory. As reported previously (Refs A-D), Schwendiman developed a number of policy guidelines (such as those on plea agreements and handling of vulnerable witnesses), and increased outreach both to Cantonal and District prosecutors' offices and to victims' groups. More recently, Schwendiman has written to the High Judicial and Prosecutorial Council requesting that the evaluation process for all prosecutors (and judges) working on war crimes cases be amended so that they could receive proper credit for the complexity of cases they process, not the quantity. (Note: Currently, judges and prosecutors receive points in their evaluations based in part on the number of cases they process. Because of the detailed

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work necessary for successful war crimes prosecutions, this system disadvantages judges and prosecutors who work on war crimes and organized crime cases and acts as a disincentive for getting judges and prosecutors in the Cantons and Districts to take on war crimes cases. End note)

15. (U) Schwendiman added that he made some inroads regarding the handling of excavations and exhumations. In response to the foot-dragging by some prosecutors' offices in carrying out excavations and exhumations in their jurisdictions, and the mistrust of some victims' groups towards these officials, Schwendiman convened a meeting in December 2008 with representatives from prosecutors' offices nation-wide. As a result of the meeting, prosecutors agreed to put the State Prosecutor's Office in charge of deciding which prosecutors' office would be responsible for specific excavations and exhumations. Since that time, Schwendiman has had discussions with ICMP, the Missing Persons Institute, and other actors, to lay the groundwork for the creation of a forensic unit within the State Prosecutor's Office.

Troubled Times Ahead

16. (U) Schwendiman expressed deep concern over SDWC's ability to continue making significant progress. He said that the uncertainty over a possible extension of international judges and prosecutors had resulted in the departure of key international staff, including the lead prosecutor on Srebrenica cases. If there is no extension of the internationals' presence and the Bosnian government does not fund and fill international slots with nationals, there would be a 40 percent reduction of SDWC's staff. As it stands now, most of the cases that were being handled by international prosecutors have been turned over to the nationals who are already burdened with their own burgeoning workloads. Schwendiman predicted that these cases, including the high-profile Dobrovoljacka case (Ref E), would stall, and work on all new investigations would cease due to the lack of personnel.

17. (C/NF) Schwendiman shared his concern that the slowing

down of work on Srebrenica-related war crimes cases would spark a political crisis ahead of the July 2010 commemoration marking the 15th anniversary of the Srebrenica genocide. He confided that without his knowledge, the lone (national) prosecutor working on these cases was assigned to work part-time on organized crime cases by Chief Prosecutor Milorad Barasin. Schwendiman also confided that the prosecutor who will replace him as Chief of the Department and who he has been grooming for the past six months is thinking of resigning. He reported that she and her family have been receiving threats as a result of her work on one case, and that she is overwhelmed by the tremendous challenges SDWC is facing.

18. (C/NF) Finally, Schwendiman expressed doubts about the managing style of Barasin, with whom he has often had a difficult relationship. He criticized Barasin for not adequately preparing for meetings and initiatives, and for not being an effective advocate for resources. As an illustration of his point, he noted that Barasin (along with State Court President Meddzida Kreso) had not prepared a back up plan in the event that the mandate of international judges and prosecutors were not extended, despite his (Schwendiman's) prodding. At the same time, he acknowledged that the development of such plans had been made more difficult given that the 2009 budget of the State Court and the State Prosecutor's Office had been significantly reduced.

Comment

19. (C) Schwendiman and other international prosecutors have clearly played a decisive role in improving the administration of war crimes cases. However, the reforms that have been put in place need help to be sustained. Schwendiman's comments underscore the fact that the international community will need to remain engaged on war crimes processing.
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